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SUPREME COURT OF INDIA

NOTIFICATION

New Delhi, the 6th May 1952

No. F.10/50SCC—The following is published for general information—

Amendments to the Supreme Court Rules, 1950

The Supreme Court of India, in the exercise of its rule-making powers, and with the approval of the President, hereby makes the following Rules:—

PART VI—A

ORDER XXXVII—A

Election Petitions under Part III of the Presidential and Vice-Presidential Elections Act, 1952 (Act No XXXI of 1952).

1 In this Order, unless the context or subject-matter otherwise requires,—

(a) “the Act” means the Presidential and Vice-Presidential Elections Act, 1952;

(b) the words defined in sections 2 and 13 of the Act shall have the respective meaning assigned to them by those sections.

2 An application calling in question an election shall only be by a petition made and presented in accordance with the provisions of this Order

3 The petition shall be presented in a court-fee stamp of the value of rupees 250 and shall be signed by the petitioner, or all the petitioners, if there are more than one, or by a duly authorised Agent of the Court, on his or their behalf

4 The petition shall be divided into paragraphs, numbered consecutively, each paragraph being confined to a distinct portion of the subject, and shall be printed or typed legibly on one side of standard petitionpaper, demy-foolscap size, or on paper of equally superior quality.

5 The petition shall set out the right of the petitioner under the Act to petition the Court, and briefly set forth the facts and grounds relied on by him to sustain the relief or reliefs claimed by him

6 The allegations of fact contained in the petition shall be verified by an affidavit to be made personally by the petitioner or by one of the petitioners, if more than one;

Provided that where the petitioner is unable to make such affidavit by reason of absence, illness or other sufficient cause it may, with the sanction of the Judge in Chambers, to be given at the time of the presentation of the petition, be made by any person duly authorised by the petitioner and competent to make the same

7. A petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 of the Act, by any candidate at such election, or by ten or more electors who may join together as petitioners.

8. Where the petitioner claims a declaration under clause (a) of section 16 of the Act, he shall implead the returned candidate as the respondent, and where he claims a declaration under clause (b) of the said section, he shall implead as respondents all candidates, other than himself, duly nominated at the election.

9. The petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12 of the Act, but not later than thirty days from the date of such publication.

10. The presentation of the petition shall be made by delivering it to the Registrar of the Court in his Chambers in the Court House, unless it is presented before the Judge in Chambers under rule 6.

11. The petitioner shall also lodge, along with the petition, at least twelve copies of the petition and of all documents which accompany it.

12. Upon the presentation of the petition, the petitioner, shall deposit a sum of Rs. 2,000 in cash with the Registrar or Deputy Registrar of the Court as security for the payment of all costs that may become payable by the petitioner.

13. Upon the presentation of the petition, the Judge in Chambers, or the Registrar, before whom it is presented, may give such directions for service of the petition and advertisement thereof as he thinks proper and also appoint a time for the hearing of the petition.

14. Unless otherwise ordered, the notice of the presentation of the petition, accompanied by a copy of the petition, shall within five days of the presentation thereof or within such further time as the Court may allow, be served by the petitioner or his Agent on the respondent or respondents, the Secretary to the Election Commission, the Returning Officer and the Attorney-General for India. Such service shall be effected personally or by registered post, as the Court or Registrar may direct. Immediately after such service the petitioner or his Agent shall file with the Registrar an affidavit of the time and manner of such service.

15. Unless dispensed with by the Judge in Chambers or the Registrar, as the case may be, notice of the presentation of the petition shall be published in the Gazette of India and also advertised in newspapers at the expense of the petitioner or petitioners, fourteen clear days before the date appointed for the hearing thereof in such manner as the Court or the Registrar may direct.

16. Every elector shall on payment of the usual fees, be entitled, within twenty-four hours after such payment, to be furnished by the petitioner or his Agent with a copy of the petition and of the affidavit in verification thereof and shall also be entitled upon payment of the prescribed fees to obtain copies from the Court.

17. A person on whom the notice of the presentation of the petition has been served or any other candidate or an elector who intends to appear on the hearing of the petition shall leave with, or send by registered post to, the petitioner or his Agent, notice of such intention signed by him or his Agent, if any. Such notice shall be served or, if sent by registered post, shall be posted in time to reach the addressee not later than two clear days before the day appointed for the hearing of the petition. No person who has failed to comply with this rule shall be allowed to appear on the hearing of the petition without the leave of the Court.

18. An affidavit intended to be used by a person other than the petitioner either in support of the petition or in opposition to the same shall be filed not less than five days before the date fixed for the hearing thereof and notice of the filing thereof shall be given to the petitioner or his Agent on the day on which the affidavit is filed. If any person fails to comply with this rule the affidavit, unless the Court otherwise directs, shall not be used at the hearing of the petition.

19. An affidavit intended to be used in reply to an affidavit filed in opposition to, or in support of, the petition shall be filed not less than two days before the date fixed for the hearing of the petition. Notice of such filing shall be given forthwith to the person by whom the affidavit in opposition to, or in support of, the petition, as the case may be, was filed or to his Agent.

20. Every petition calling in question an election shall be posted before and be heard and disposed of by a Bench of the Court consisting of not less than five Judges.

21. The petition shall not be withdrawn, save with the leave of the Court to be obtained upon application made for the purpose by notice of motion.

22. Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners given in writing

23. An application for leave to withdraw a petition which has been advertised in accordance with the provisions of rule 15 hereof shall not be heard at any time before the date fixed in the advertisement for the hearing of the petition.

24. No application for withdrawal shall be granted if in the opinion of the Court such application has been induced by any extraneous or improper bargain or consideration.

25. When a petitioner/petitioners applies/apply for leave to withdraw his/their petition or asks/ask that it be dismissed or that the hearing thereof be adjourned without mentioning sufficient cause or fails/fail to appear in support thereof or if appearing does/do not apply for an order in terms thereof or if for any other sufficient reason the Court thinks fit so to do, the Court may, upon such terms as it thinks just, make an order permitting the petitioner/petitioners to withdraw or dismissing the petitioner/petitioners from the petition for default and may, upon such terms as it thinks just, substitute as petitioner/petitioners any other candidate or any other ten electors who in its opinion would have a right to present a petition and is/are desirous of prosecuting the petition already admitted.

26. If no order for substitution of a new petitioner or petitioners be made by the Court under the last preceding rule but the Court only permits the withdrawal of the petition, or dismisses the petitioner/petitioners from the petition, notice of the order of withdrawal of the petition or dismissal of the petitioner/petitioner, shall be published by the Registrar in the Gazette of India and in the newspapers in which the original petition had been advertised under rule 15 and the Court may, on the application made within fourteen days of the publication of such notice in the Gazette of India by any other candidate or another ten electors who might himself or themselves have been a petitioner or petitioners, make an order upon such terms as it thinks fit, substituting such petitioner or petitioners in place of the petitioner or petitioners withdrawing or not appearing at the hearing or not proceeding with the petition. If no such application is made within the time aforesaid or, if made, the Court does not think fit to grant the same, the original petition shall stand dismissed.

27. Where the Court allows a candidate or ten electors to be substituted as petitioner or petitioners under rule 25 or rule 26, the Court shall appoint a date for the hearing of the petition and such substituted petitioner or petitioners shall within seven days from the making of the order file a clean copy of the petition with such consequential amendments as may be necessary by reason of the order of substitution therein and shall also file an affidavit verifying such amendments. The amended petition shall be treated as the petition for calling in question the election.

28. Upon hearing the application for withdrawal or at the time of making an order for substitution, the Court may, if it thinks fit, by order direct that the amount deposited by the original petitioner as security for the costs of the respondent or respondents be applied in payment of the costs incurred by him or them upto the date of the substitution of the new petitioner or petitioners, so far as it may be necessary, and the balance, if any, shall be refunded to the original petitioner or petitioners within seven days from the date of the order of substitution or such further time as the Court may allow.

29. Unless otherwise ordered by the Court, the substituted petitioner or petitioners shall deposit with the Registrar a sum of Rs. 2,000 as and by way of security for the costs of the respondent or respondents.

30. An election petition shall abate by the death of a sole petitioner or in case of several petitioners on the death of the survivor of them:

Provided that there shall be no abatement after the hearing of the petition has been concluded.

31. The abatement of a petition shall not affect the liability of the amount deposited by the petitioner as security for costs or the estate of the petitioner or petitioners for the payment of costs previously incurred.

32. On the abatement of a petition under rule 30, notice of such abatement having taken place shall be published by the Registrar in the Gazette of India and the newspapers in which the original petition had been advertised and the Court may on the application made within fourteen days of the publication of such notice in the Gazette of India by any other candidate or another ten electors who might himself or themselves have been a petitioner or petitioners make an order, upon such terms as it thinks fit, substituting him or them in the place of the original petitioner or petitioners and the procedure prescribed in rule 27 and the provisions of rule 29 shall apply in relation to the substituted petitioner or petitioners.

33. If before the conclusion of the hearing of an election petition any contesting respondent dies or gives notice that he does not intend to oppose the petition and there is no other respondent who is opposing the petition, the Registrar shall cause a notice of such facts to be published in the Gazette of India and the newspapers in which the original petition had been advertised and any candidate or ten electors who might have been a petitioner or petitioners may, within fourteen days after such publication, apply to be substituted in the place of the respondent dying or not proceeding with his opposition to oppose the petition and the Court may make such order upon such terms as it thinks fit.

34. Subject to the provisions of this Order and any special order or directions of the Court, the procedure on an election petition shall follow, as nearly as may be, the procedure in proceedings before the Court in the exercise of its original jurisdiction.

35. At the conclusion of the hearing of the election petition, the Court shall make an order either at once or on some future day, of which due notice shall be given by the Registrar to all persons who appeared at the hearing of the petition.

36. After the order of the Court has been announced, the Registrar shall send a copy thereof to the Central Government for publication in the Official Gazette.

By Order of the Court.

P. N. MURTY,

Registrar, Supreme Court of India